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DEPARTMENT OF NATURAL RESOURCES

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Division of Oil, Gas and Mining

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May 6, 2008

Jim Runquist
TME Asphalt Ridge
4526 Ridgeview Drive
Eagan, MN 55123

Subject: Fifth Review of Notice of Intention to Commence Large Mining Operations, TME Asphalt Ridge LLC, TME Asphalt Ridge #1, M/047/089, Uintah County, Utah

Dear Mr. Runquist:

The Division has completed our fifth review of your draft Notice of Intention to Commence Large Mining Operations for the mine, located in Uintah County, Utah, which was received April 15, 2008. The attached comments will need to be addressed before tentative approval may be granted.

The comments are listed below under the applicable Minerals Rule heading. Please address only those items requested in the attached technical review. Send replacement pages and indicate how these are to be incorporated using Form-MR-REV-att found on the Divisions web page. After the notice is determined technically complete you will be asked that you send us two clean copies of the complete; one copy will be returned.

The Division requests that submittals are made according to the following format. Notices and changes should be three hole punched, maps folded and placed in a plastic 8 ½ by 11 sleeve, and binders provided for new notices, revisions, applications, or other changes of 30 pages or more (binders need only be provided once). A final electronic copy is appreciated. You may request information relating to the relating to the location, size, and nature of the mineral deposit to be kept confidential. Confidential information must be clearly marked and provided in a separate binder.

If you have any questions in this regard please contact me (801) 538-5258, Tom Munson (801) 538-5321, Paul Baker (801) 538-5361, or Leslie Heppler (801) 538-5357 of the Minerals Staff. If you wish to discuss this review, please contact us at your earliest convenience. Thank you for your cooperation in completing this permitting action.

Sincerely,

Susan M. White
Mining Program Coordinator
Minerals Regulatory Program

SMW:lah:pb
Task #2270
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FIFTH REVIEW OF NOTICE OF INTENTION TO COMMENCE LARGE MINING OPERATIONS

TME Asphalt
Mine name

M/047/089

R647-4-104 - Filing Requirements and Review Procedures

R647-4-104 - Operators, Surface and Mineral Ownership

R647-4-105 - Maps, Drawings & Photographs

- 105.1 Topographic base map, boundaries, pre-act disturbance
- 105.2 Surface facilities map
- 105.3 Drawings or Cross Sections (slopes, roads, pads, etc.)

All roads used to access areas specific to a mining phase need to be documented on the maps. (lah)

Provide a map which clearly delineates areas which will be disturbed in Phase 1 from year 0-2.5 (lah)

Geologic Map 5C Needs standard map annotation – which should include Township, Range and Section, north arrow, scale, and reference to location (lah)

- 105.4 Photographs

R647-4-106 - Operation Plan

- 106.1 Minerals mined
- 106.2 Type of operations conducted, mining method, processing etc.
- 106.3 Estimated acreages disturbed, reclaimed, annually.
- 106.4 Nature of materials mined, waste and estimated tonnages
- 106.5 Existing soil types, location, amount
- 106.6 Plan for protecting & redepositing soils
- 106.7 Existing vegetation - species and amount

106.8 Depth to groundwater, extent of overburden, geology

The fact that you obtained a permit by rule from the DEQ doesn't exempt you from responding to this question. Please provide a response, which addresses these questions. The Division understands the response by DEQ states the nearest wells are 2 miles away, but this does preclude the Division from requesting the geologic occurrence of the perennial stream which within the mine site and occurs hundred of feet from the mine site. (TM)

Clarification on the depth to groundwater is need as it pertains to bond costs. It is my understanding that in an earlier submittal the plan indicated there would be water present in the pit. (lah)

In written text provide a geologic explanation for the variation in the depth to groundwater. (lah)

- 106.9 Location & size of ore, waste, tailings, ponds; and 106.10 Amount of materials
If the Division is to determine the surety amount then all detail regarding the type, distance and amount of materials to be moved; size, materials and location of surface facilities; location, material, and dimensions of berms, roads, pits and drainages; and all other reclamation detail must be provided.

R647-4-109 - Impact Assessment

- 109.1 Impacts to surface & groundwater systems
109.2 Impacts to threatened & endangered wildlife/habitat

In the previous review, the Division commented that the plan needs to identify the use of water from the Green River as an impact to the four endangered fish species of the Upper Colorado River Basin. The operator responded that the water committed for use is an existing appropriated right through the State Engineer, that the applicant has a legal right to use the water within the constraints set out by the State Engineer, and that an impact assessment is not necessary or provided.

Use of water from the Upper Colorado River Basin jeopardizes the continued survival of four endangered fish species. The Division is not arguing whether there is an existing water right (although it appears from information available from the Division of Water Rights that the transfer of at least one water right has not been approved and has been protested by the Fish and Wildlife Service).

Quite simply, water use, whether from an existing or a new water right, negatively affects these fish, and this impact needs to be identified in the plan. (PBB)

There is the potential for direct impacts from pumping the water from the Green River, and this should also be identified. (PBB)

- 109.3 Impacts on existing soils resources
- 109.4 Slope stability, erosion control, air quality, safety

No documentation contained for Air Quality (lah)

- 109.5 Actions to mitigate any impacts

As discussed in the previous review, the plan needs to identify how impacts to the endangered fish of the Upper Colorado River Basin will be mitigated. The Fish and Wildlife Service provided the following comments (slightly modified to fit with this review) about pumping water directly from the Green River:

1. The best method to avoid entrainment is to pump from an off-channel location – one that does not connect to the river during high spring flows.
2. Larval fish may be present in the Green River from as early as April 1 to as late as August 31. If the pump head is located in the river channel where larval fish are known to occur, we recommend the following measures:
 - a. Do not situate the pump in a low-flow or no-flow area, as these habitats tend to concentrate larval fishes;
 - b. Limit the amount of pumping, to the greatest extent possible, during that period of the year when larval fish may be present (see above); and
 - c. Limit the amount of pumping, to the greatest extent possible, during the pre-dawn and after dusk hours as larval drift studies indicate that this is a period of greatest daily activity.
3. Screen all pump intakes with ¼" mesh material.
4. Report any fish impinged on the intake screen to the Service (801-975-3330) or the Utah Division of Wildlife Resources Northeastern Region, 152 East 100 North, Vernal, UT 84078: (435-781-9453)

If it can be confirmed that no fish are ever in this area, then these mitigation measures may not be necessary. (PBB)

As discussed in Section R647-4-109.2 of this review, water use jeopardizes the continued existence of these four species. Please identify what measures will be

used to mitigate these impacts. These mitigation measures are required whether or not any federal permitting is needed. The best way to determine the measures to be used is to meet with the Fish and Wildlife Service and come to an agreement about water use. The Division recognizes that there is an existing water right for at least a portion of the water that will be used, but there would apparently be more water used by the mine than was used by irrigation. How will the use be mitigated? (PBB)

R647-4-110 - Reclamation Plan

- 110.1 Current & post mining land use
- 110.2 Roads, highwalls, slopes, drainages, pits, etc., reclaimed

The drainage that is shown would not be the best choice for a final configuration. It would make better sense to put the same drainage along the centerline with energy dissipation through check dams as shown. The meandering drainage as shown will be prime for failure because it is perpendicular to flow patterns. The check dams need to be keyed into the bed, bank and sides of the channel and incorporate a trapezoidal spillway or low point in the center to prevent failure. These are suggestions. (TM)

- 110.3 Description of facilities to be left (post mining use)
- 110.4 Description or treatment/disposition of deleterious or acid forming material
- 110.5 Revegetation planting program

Please include a plan for revegetating the wetland area. The Division considers the stream crossing to be a part of the mine that will need to be revegetated. Rather than committing to develop a plan in the future, please include a revegetation plan for this area. The Division suggests a very simple plan, such as planting willow cuttings on two-foot centers in the spring before they break dormancy. (PBB)

R647-4-112 – Variance

R647-4-113 – Surety

- 113.3 Surety acceptance if accurate and verifiable

The surety calculation sheets do not attempt a phased approach to match the phased mining approach. It is important for the different mining “phases” surety

calculation sheets to be clearly set up, so future releases of the surety can be handled in a manner which can be expedited. A possible/probable scenario would include the Processing facilities as an on going carry over from phase to phase, with different amounts of the backfilled pit being reclaimed as the mining phases progress. Include a post mining and monitoring closure surety calculation sheets. Each phase should be clearly labeled (such as Phase 1 - Page 2 of 13). (lah)

A map that matches mining/processing phases, and expected durations, that was tied to surety calculation sheets. (lah)

It is understandable that an Operator would not want to release propriety data such as dollar unit costs or projected unit cost in the future, but the AMOUNT of each item (liner foot, cubic yard, acre, etc.) of each feature should be noted. Bond calculations need to reflect the actual cost that would be required by OGM to actually perform the reclamation in a worse case scenario, which include administrative s and 3rd party engineering costs. It should be noted that bonding cost used should utilize Means as a basis for the cost estimate. Projected costs need to include escalated costs to match schedule that the operator has set forth. (lah)

The different reclamation categories identified should be noted as "phased" and included durations. Such as - facilities versus pit reclamation and regrading versus vegetation. (lah)

Based on past performance permitting schedule should be considered for amendments needed for future mine plans. (lah)

R647-4-115 - Confidential Information

R647-4-116 - Public Notice & Appeals